

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
) Criminal No. 08-363
)
v.)
)
SHAWN LEON ROSE)

MEMORANDUM AND ORDER OF COURT

On October 14, 2008, the grand jury returned a one-count indictment against Shawn Leon Rose (“defendant”) charging him with possession of a firearm by a convicted felon on or about August 23, 2008, in violation of 18 U.S.C. §922(g)(1). On March 23, 2010, defendant change his plea to guilty, and he subsequently was sentenced on July 21, 2010, to a term of 90 months imprisonment followed by a 3-year term of supervised release. Defendant did not file an appeal of his conviction or sentence.

Despite the fact that this court sentenced defendant over five years ago, and there is no proceeding currently pending, he has filed a pro se Motion Requesting Sentencing Transcripts (Document No. 74). Defendant requests that his sentencing transcript be provided to him free of charge so that he can review it “to make a better assessment of his claim” in connection with an as-yet to be filed petition under 28 U.S.C. §2255. For reasons explained below, defendant’s motion will be denied.

Under the Criminal Justice Act, an indigent defendant may obtain services, which include transcripts, for adequate representation upon a finding that the services are necessary and the defendant is financially unable to obtain them. See 18 U.S.C. §3006A(e)(1); see also United States v. Raghunathan, 288 Fed. Appx. 2, 4 (3d Cir. 2008) (observing that necessary transcripts are included within the services authorized). In addition, 28 U.S.C. §753(f) provides that the United

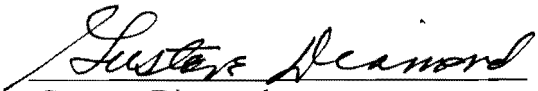
States will pay for transcripts in proceedings brought under 28 U.S.C. §2255 by persons proceeding in forma pauperis “if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.” 28 U.S.C. §753(f). However, neither the Criminal Justice Act, nor 28 U.S.C. §753(f), authorize the United States to pay for a transcript where no proceeding is pending. See Raghunathan, 288 Fed. Appx. at 4; Fadayiro v. United States, 30 F.Supp.2d 772, 780 (D.N.J. 1998) (stating that “[s]ection 753(f) prevents the situation in which an indigent prisoner obtains a free transcript merely to search for error in an attempt to generate a basis for collaterally attacking a conviction”).

In this case, defendant requests a free copy of his sentencing transcript to review in connection with the possible filing of a petition under 28 U.S.C. §2255. However, because there is no proceeding under §2255 currently pending, defendant is not entitled to obtain his sentencing transcript free of charge, and his motion will be denied.

An appropriate order will follow.

ORDER

AND NOW, this 30th day of July, 2015, upon consideration of defendant’s pro se Motion Requesting Sentencing Transcripts (Document No. 74), and for the reasons set forth in the Memorandum above, IT IS ORDERED that defendant’s motion be, and the same hereby, is denied.


Gustave Diamond
United States District Judge

cc: Charles A. Eberle
Assistant U.S. Attorney

Shawn Leon Rose